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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

CRENSHAW SUBWAY COALITION,

Plaintiff and Appellant,

v.

CITY OF LOS ANGELES et al.,

Defendants and Respondents;

CP V CUMULUS LLC,

Real Party in Interest
and Respondent.

B285588

(Los Angeles County
Super. Ct. No. BS163238)

APPEAL from a judgment of the Superior Court for Los Angeles County, Mary H. Strobel, Judge. Affirmed.

Strumwasser & Woocher, Fredric D. Woocher, Dale K. Larson and Beverly Grossman Palmer for Plaintiff and Appellant.

Michael N. Feuer, City Attorney, Terry P. Kaufmann Macias, Assistant City Attorney, Kathryn C. Phelan and Len Aslanian, Deputy City Attorneys; Meyers, Nave, Riback, Silver & Wilson, Amrit S. Kulkarni, and Shaye Diveley for Defendants and Respondents.

Alston & Bird, Matt Wickersham, Max Rollens and Edward J. Casey
for Real Party in Interest and Respondent.

In May 2016, respondents City of Los Angeles and Los Angeles City Council (collectively, City) approved a large transit-oriented development (the Project) proposed by Real Party in Interest CP V Cumulus LLC (Developer). Appellant Crenshaw Subway Coalition (Coalition) challenges that approval, arguing that City's approval of a general plan amendment for the site was improper, and that the environmental impact report (the EIR) was inadequate under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). We conclude that City acted in accordance with the City Charter and did not abuse its discretion in approving the general plan amendment, nor did City abuse its discretion in certifying the EIR. Accordingly, we affirm the judgment of the trial court denying Coalition's petition for writ of mandate.

BACKGROUND

A. *The Project*

Developer seeks to develop a transit-oriented, mixed-use project on an 11.19 acre site that is located across the street from the La Cienega/Jefferson station on the Metro Expo Line; it also is within 100 feet of five bus line routes. Currently, the site is occupied by an office building, accessory structures, and four light industrial structures (totaling approximately 63,313 square feet of occupied floor area), and two radio towers.

Over the course of a year and a half, Developer met with a broad cross-section of the local community, including residents, neighborhood

associations, and local businesses to get their input on the elements and design of the Project. As a result of the community's input, the Project includes a community park and plaza, a grocery store, restaurants, local-serving retail stores, and one acre of solar panels on the roofs of the buildings. The Project also includes a substantial number of market rate residential units to accommodate what is expected to be a large influx of employees into the area as a result of the construction of a nearby high-rise office tower and the conversion of a nearby conglomeration of industrial and warehouse buildings into a million square feet of creative office and entertainment oriented spaces.

The Project consists of one large building that faces along three sides of the rectangular site and varies in height from 74 feet to 110 feet, plus a 320-foot tower on the northeast corner of the site, surrounding various courtyards and outdoor spaces, including a .68-acre publicly accessible park. Most of the first two floors of the buildings are office or retail space, with residential units above. There are a total of 1,210 residential units,¹ 200,000 square feet of office space, and 100,000 square feet of retail space, with 2,371 automobile parking spaces in both subterranean and above-ground parking structures that also include 1491 short- and long-term bicycle parking spaces (with a 6,282 square foot "bike hub" that includes a 100 square foot workshop). The retail space will include a 50,000 square foot grocery market at the corner of Jefferson and La Cienega Boulevards, 20,000 square feet of restaurant space, and 30,000 square feet of general retail. The Project is designed to promote

¹ As originally proposed, the Project was to have 1,218 residential units. The number subsequently was reduced to 1210 units in "Q" Qualified Conditions of Approval.

walkability, both on the street-sides of the Project and in the interior publicly accessible open spaces.

B. *Developer's Application for Approval of Entitlements for the Project*

Developer submitted a master land use permit application to City on July 10, 2015. It sought: (1) a general plan amendment to amend the West Adams-Baldwin Hills/Leimert Community Plan land use designation of the site from Limited Manufacturing to Community Commercial; (2) a zone change and height district change to the C2-2 district (which corresponds with the Community Commercial land use designation and permits residential uses consistent with R4 zone requirements); (3) site plan review findings; (4) a zoning administrator adjustment to adjust the density (lot area per unit) set by the R4 standards; and (5) a division of land (vesting tentative tract map). Developer acknowledged in its application that the Department of City Planning was in the process of updating the West Adams-Baldwin Hills/Leimert Community Plan, and that the update was expected to go to public hearing later that Fall. Developer noted the update would include the establishment of a Community Plan Implementation Overlay (CPIO) district for West Adams to encourage the creation of pedestrian-friendly developments where health and sustainability are promoted through a mix of uses providing jobs, housing, goods and services, and access to open space within walking distance of the La Cienega/Jefferson Expo Line station. Although Developer explained that City is not legally required to make a determination about whether the Project is consistent with draft land use plans, it nevertheless discussed how the Project was consistent with the draft CPIO.

C. *The EIR*

In March 2015, City conducted an initial study of the Project under CEQA, and determined that an EIR must be prepared. City issued a notice of preparation of the EIR and sought comments from the public as to the scope and content of the EIR. Following the receipt of comments, a Draft EIR was prepared; it was circulated on July 23, 2015 for public comment.

The Draft EIR analyzed the potential environmental impacts of the Project with respect to several areas, and identified mitigation measures to lessen (or reduce below significant levels) the cumulative impacts. The Draft EIR concluded that with the identified mitigation measures, the impacts as to all but two areas—air quality (primarily from mobile source emissions associated with vehicle travel to and from the Project site) and transportation/traffic—would be less than significant.

With respect to traffic impacts, City conducted a traffic study, which was developed in consultation with the Los Angeles Department of Transportation (LADOT), with input from the City of Culver City (due to the potential traffic impacts on that city). The traffic study analyzed the potential Project-generated traffic impact on the street system in the vicinity of the Project,² and selected 58 intersections near the Project for a detailed traffic analysis. Based upon that study, City determined the Project would have significant impacts at 24 of the 58 intersections. It then formulated

² The Draft EIR included a chart showing Project trip generation daily, including during peak morning and afternoon hours, broken out by type of land use. The trip generation rates used, which were included in the chart, were determined in consultation with LADOT. They ranged from 6.65 daily trips per dwelling unit, to 11.03 daily trips per 1,000 square feet of office space, to 102.24 daily trips per 1,000 square feet of supermarket, to 127.15 daily trips per 1,000 square feet of high-turnover restaurant.

mitigation measures that the Draft EIR concluded would reduce the impacts to less than significant for all but eight intersections.

The Draft EIR also analyzed five alternatives to the Project and determined as to each whether it would substantially lessen the Project's significant impacts while still attaining most of the basic objectives of the Project.³ The objectives for the Project were identified as follows:

- “Redevelop a currently underutilized, industrial site into an iconic mixed-use development that combines complementary uses, such as community serving retail, office, and residential uses.”
- “Further local and regional objectives of reducing vehicle miles traveled and greenhouse gas emissions by providing a mix of uses and increased density in close proximity to existing bus and transit systems, including the La Cienega/Jefferson Expo Line Station.”
- “Activate the La Cienega and Jefferson Boulevard corridors by attracting residents and visitors, both day and night by providing publicly accessible open and green spaces, walkways, plazas, and other gathering spaces.”
- “Encourage pedestrian and bicycle activity by providing bicycle parking and pedestrian linkages within the Project, as well as an attractive pedestrian experience on La Cienega and Jefferson Boulevards.”
- “Through inclusion of architecturally significant elements, create an iconic design identity at the intersection of La Cienega and Jefferson Boulevards.”

³ Two additional alternatives—an all-commercial project and an all-residential project—were considered, but they were rejected as infeasible because they would not provide the necessary mix of uses and density to benefit from proximity to transit.

- “Improve the aesthetic quality of the site by removing older structures and developing new efficient buildings that are more sensitive to adjacent uses.”
- “Incorporate sustainable and green building design and construction to promote resource conservation, including waste reduction, efficient water management techniques, and conservation of electricity and energy.”
- “Create a significant amount of new permanent jobs.”
- “Improve public safety by creating a development that provides the level of density and mix of uses necessary to activate the area both day and night.”
- “Provide a reasonably significant amount of housing along a major public transportation corridor in furtherance of City’s goals and policies, and in close proximity to the La Cienega/Jefferson Metro Expo Line Station.”

The five alternatives that were analyzed were (1) a no project alternative; (2) a reduced density/existing zoning alternative; (3) a reduced density alternative; (4) a reduced height alternative; and (5) a reconfigured Project alternative. The first alternative, as its name suggests, would leave the site as it is; CEQA requires that the EIR analyze such an alternative. In the second alternative, all of the existing buildings would be demolished and the site would be built-out to the maximum uses allowed under the existing zoning; it would consist of approximately 731,302 square feet of light manufacturing uses, with a proposed height of 45 feet. The third alternative eliminates the 200,000 square feet of office space from the Project, while retaining the same number of residential units and the same retail space.

The fourth alternative retains the same number of residential units and same amount of office and retail space as the Project, but with a maximum height of 110 feet. The fifth alternative involves reconfiguring the Project by placing the tower in different corners of the site.

The Draft EIR concluded that the first alternative was the environmentally superior alternative, but it would not satisfy any of the Project objectives. It found that the environmental impacts of all but one of the remaining alternatives would not substantially reduce the Project's significant and unavoidable impacts. It concluded that only the second alternative (reduced density/existing zoning) would reduce the air quality impacts to less than significant, and therefore was the "Environmentally Superior Alternative." However, it also found that the second alternative would meet only some of the Project objectives, and only to a lesser extent than the Project.

As noted, the Draft EIR was circulated for public comments. City received 13 comment letters; none was from Coalition or any representative of Coalition. City responded to each of the comment letters, made certain changes to the Draft EIR (none of which has any relevance to the issues in this case), and released the Final EIR on December 21, 2015.

D. Public Hearings and Approval of the Project

A hearing before the City Advisory Agency was held to consider Developer's request to approve the vesting tentative tract map. The Advisory Agency granted that request, with conditions. William Dickey, a nearby resident, appealed that approval to the City Planning Commission on the grounds that (1) the hearing officer erred in approving the vesting tentative tract map before City certified the Final EIR; and (2) the Final EIR is

inadequate because City failed to adequately disclose, analyze, and mitigate traffic impacts.

The Planning Commission held a hearing to consider Dickey's appeal and to consider Developer's requests for approval of entitlements for the Project. At that hearing, the Planning Commission denied Dickey's appeal, certified the EIR (making the necessary CEQA findings and adopting mitigation measures, a mitigation monitoring program, and a statement of overriding considerations⁴), denied the zoning administrator's adjustment, sustained the Advisory Agency's approval of the vesting tentative tract map, and recommended approval of the general plan amendment and the zone/height district change (with conditions). One of the conditions imposed was a "Q" condition that limited the number of residential units to 1090, but allowed an increase of up to 73 additional units in exchange for a five percent (i.e., 55 units) set-aside for workforce housing (i.e., housing that is affordable to households earning 80 to 120 percent of area median income). The Commission also issued detailed findings in support of its determinations. Mayor Eric Garcetti concurred in the Planning Commission's recommendations and findings.

Dickey—now representing La Cienega Heights Association—appealed the Planning Commission's determinations to the City Council. He asserted that the EIR incorrectly found no significant traffic impacts on the residential neighborhood, and contended the EIR should not be certified until the neighborhood impacts are correctly analyzed and an appropriate

⁴ Because there would be significant impacts to air quality and traffic that were unavoidable even with mitigation measures, City was required under CEQA to adopt a statement of overriding considerations explaining why those impacts were outweighed by the benefits of the Project.

neighborhood traffic management plan is identified. The appeal was heard by City's Planning and Land Use Management (PLUM) committee on May 10 and 24, 2016, when the PLUM committee also considered the Planning Commission's recommendations and the certification of the EIR.⁵

On May 5, 2016, Developer submitted a letter to the chair of the PLUM committee, providing "suggestions for clarifications and modifications to the recommendations made by the [Planning Commission] for the necessary entitlements." One of those suggestions was to modify the "Q" condition to allow a maximum of 1210 residential units, to eliminate the *requirement* of a set-aside for workforce housing, and to require Developer to *consider* setting aside 55 residential units for households earning up to 120 percent of area median income. Developer explained the reason for this proposed change, noting that the community was lacking quality market rate housing, the community had expressed a desire for market rate housing, and imposing a condition requiring Developer to set-aside workforce housing could jeopardize financing for the Project.

At the beginning of both the May 10 and May 24, 2016 PLUM committee public hearings, staff member Sergio Ibarra stated on the record that the Planning Commission had approved the Project with a by-right density of 1090 residential units with the option of a density bonus of 73 units in exchange for a five percent set-aside for workforce housing. At the May 24 hearing, Ibarra explained how that "Q" condition came to be imposed, and stated that Developer had submitted a letter proposing that the "Q"

⁵ The PLUM committee could not act on the general plan amendment or the zone/height district change at the May 10, 2016 hearing because those items were not included on the agenda for the hearing. Therefore, the committee determined it would hold an additional hearing on May 24, 2016 to consider those entitlements.

condition instead provide for a maximum of 1210 residential units “with the option of providing 55 dwelling units for households earning up to 120 percent [area median income].” Ibarra explained that Developer’s request was before the committee for its consideration at that hearing.

The public comments at both PLUM committee hearings were overwhelmingly in support of the Project. One of the few people who expressed opposition was Coalition founder and executive director Damien Goodman.⁶ Goodman, who admitted that Coalition had not filed an appeal from the Planning Commission’s determination (because he said that Coalition did not get notice of the determination), argued at the first hearing that the Project should be limited to the height limitation in the CPIO for the area, which would be 75 feet. At the second hearing, Goodman argued that the proposed 320-foot tower should not be allowed because it would be three times the height limit the community agreed upon in the draft CPIO, and that the large number of residential units would have a negative impact on the community. At both hearings, he threatened to bring legal action if City approved the Project without limiting the maximum height and number of residential units.

On May 24, 2016, the PLUM committee denied the appeal by Dickey/La Cienega Heights Association and adopted the Planning Commission’s recommendations, with Developer’s requested modification to the “Q” condition regarding workforce housing. Specifically, the PLUM committee recommended that the City Council, among other things, (1) certify and adopt the EIR, and adopt the CEQA findings and statement of overriding

⁶ At the first PLUM committee hearing, Coalition submitted an almost 700-page written opposition to the Project. It was the first time Coalition submitted any comment on the Project.

considerations as amended by the PLUM Committee; (2) adopt the findings of the Planning Commission as amended and approved by the PLUM committee; (3) adopt the resolution, as amended by the PLUM committee, approving the general plan amendment; and (4) present and adopt a new ordinance to effect the zone change and height district change.

The following day, the City Council adopted the PLUM committee's report, the resolution approving the general plan amendment, and the ordinance changing the zones and zone boundaries; that ordinance included the modified "Q" condition, as well as administrative conditions of approval, which included the environmental mitigation conditions.

E. *Petition for Writ of Mandate in Trial Court*

Coalition and another organization⁷ filed a petition for writ of mandate and complaint for injunctive and declaratory relief. In the operative second amended petition, Coalition alleged that (1) City violated the Los Angeles City Charter (the Charter) by approving the general plan amendment because the amendment was initiated at the request of Developer, it was undertaken solely for the development of the Project, and the findings in support of the amendment were not sufficient to bring the amendment within Charter section 555; (2) the EIR did not comply with CEQA because the traffic analysis was inadequate, the EIR failed to account for the conflict between the Project and both the existing general plan and the new community plan for the area, it did not adequately analyze the Project's impacts on municipal services and the environment, and the range of alternatives it analyzed was not reasonable; and (3) City's approval of the

⁷ The other organization, Friends of the Neighborhood Integrity Initiative, was dismissed from the action and is not a party to the appeal.

vesting tentative tract map violated the Subdivision Map Act (Gov. Code, § 66473.5) because at the time it was approved by the Planning Commission, the tract map was inconsistent with the general plan and the Commission just assumed the City Council would approve the general plan amendment.

The trial court heard oral argument on the writ petition on August 3, 2017, and issued a detailed ruling on August 11, 2017, denying the writ in its entirety. The court entered judgment on September 1, 2017, from which Coalition timely filed a notice of appeal.

DISCUSSION

On appeal, Coalition contends that City’s approval of the general plan amendment violated Charter section 555 because (1) project-specific amendments are not allowed under that provision; (2) City’s findings in support of the amendment were insufficient because they failed to show that the Project site is a geographic area with significant social, economic, or physical identity; and (3) the City Council modified the general plan amendment by changing the “Q” condition but failed to refer it back to the Planning Commission, as was required by Charter section 555. Coalition also contends that the EIR was inadequate under CEQA because (1) it did not consider a reasonable range of alternatives; (2) it failed to discuss the draft West Adams-Baldwin Hills/Leimert Community Plan and the Project’s non-conformance with that plan; and (3) it improperly deferred traffic mitigation measures. None of these contentions prevail.

A. Standard of Review

When reviewing a challenge to an agency’s approval of a general plan amendment or certification of an EIR under CEQA, the inquiry “is whether

the agency in question prejudicially abused its discretion; that is, whether the agency action was arbitrary, capricious, in excess of its jurisdiction, entirely lacking in evidentiary support, or without reasonable or rational basis as a matter of law. [Citations.] A prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law, if its decision is not supported by findings, or if its findings are not supported by substantial evidence in the record.” (*San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 673-674 (*San Franciscans*).)

On appeal, we are not bound by the trial court’s conclusions, and review de novo the agency’s decisions. (*San Franciscans, supra*, 102 Cal.App.4th at pp. 673-674.) However, “we must give the [agency’s] decision substantial deference, presume it to be correct, and resolve reasonable doubts in favor of the administrative findings.” (*Save Our Heritage Organisation v. City of San Diego* (2015) 237 Cal.App.4th 163, 179.)

B. *Amendment of the General Plan*

Amendments to City’s general plan are governed by Charter section 555. That section provides, in relevant part: “(a) **Amendment in Whole or in Part.** The General Plan may be amended in its entirety, by subject elements or parts of subject elements, or by geographic areas, provided that the part or area involved has significant social, economic or physical identity. [¶] . . . [¶] (c) **Commission and Mayoral Recommendations.** The City Planning Commission shall hold a public hearing before making any recommendation on a proposed amendment to the General Plan After the Commission recommends approval of an amendment . . . the Commission shall forward its recommendation to the Mayor. The Mayor shall have 30

days to forward his or her recommendation to the Council regarding the proposed amendment to the General Plan. . . . [¶] (d) **Council Action.** The Council shall conduct a public hearing before taking action on a proposed amendment to the General Plan. [¶] If the Council proposes any modification to the amendment approved by the City Planning Commission, the proposed modification shall be referred to the City Planning Commission and the Mayor for their recommendations.”

1. *Project-Specific Amendment*

Coalition contends City violated its Charter by approving the general plan amendment in this case because Charter section 555, by its express language and legislative history, prohibits City from amending the general plan for a single project site. After briefing was completed in this case, our colleagues in Division Eight of this Appellate District issued their opinion in *Westsideers Opposed to Overdevelopment v. City of Los Angeles* (2018) 27 Cal.App.5th 1079 (*Westsideers*), which addressed this exact issue. The court held that the Charter does not prohibit a general plan amendment pertaining to a single project site, as long as that site has significant social, economic, or physical identity. (*Id.* at p. 1089.) We agree with our colleagues’ analysis and holding, and quote from the opinion at length.

“A “charter city may not act in conflict with its charter” [citation] and “[a]ny act that is violative of or not in compliance with the charter is void.”’ [Citation.] ‘A City Charter operates as a limitation or restriction over all the municipal affairs which the City is assumed to possess; it is not a grant of power, and the enumeration of powers therein does not constitute an exclusion or limitation on the City’s authority. Restrictions on the City’s powers may not be implied; unless the Charter expressly prohibits it from

exercising its authority in a manner not otherwise limited by state or federal law, the City retains the power to do so.’ [Citation.]

“‘The principles of construction that apply to statutes also apply to the interpretation of charter provisions. [Citation.] “In construing a provision adopted by the voters our task is to ascertain the intent of the voters.” [Citation.] “We look first to the language of the charter, giving effect to its plain meaning. [Citation.] Where the words of the charter are clear, we may not add to or alter them to accomplish a purpose that does not appear on the face of the charter or from its legislative history.” [Citation.]’ [Citation.]

“Additional rules of statutory construction apply specifically to the interpretation of city charters. The controlling principle governing charter cities is ‘that by accepting the privilege of autonomous rule the city has all powers over municipal affairs, otherwise lawfully exercised, subject only to the *clear and explicit* limitations and restrictions contained in the charter. . . . All rules of statutory construction as applied to charter provisions [citations] are subordinate to this controlling principle. . . . A construction in favor of the exercise of the power and against the existence of any limitation or restriction thereon which is not expressly stated in the charter is clearly indicated. So guided, reason dictates that the full exercise of power is permitted except as clearly and explicitly curtailed. Thus in construing the city’s charter a restriction on the exercise of municipal power may not be implied.’ [Citations.]

“‘Construing a city charter is a legal issue we review *de novo*.’ [Citation.] However, in ‘reviewing an agency’s interpretation of law we exercise our “*independent judgment . . . , giving deference to the determination of the agency appropriate to the circumstances of the agency action.*”’ [Citation.] The City’s interpretation of its own charter is ‘entitled to

great weight and respect unless shown to be clearly erroneous’ and ‘must be upheld if it has a reasonable basis.’ [Citation.]” (*Westside*s, *supra*, 27 Cal.App.5th at pp. 1086-1087.)

As in *Westside*s, Coalition’s argument hinges on the following language from section 555(a) of the Charter: “The General Plan may be amended in its entirety, by subject elements or parts of subject elements, or by geographic areas, provided that the part or area involved has significant social, economic or physical identity.” Coalition argues, as did the petitioners in *Westside*s, that a single Project site cannot qualify as a “geographic area” with “significant social, economic or physical identity” because it is a single parcel. It contends that “[t]he term ‘geographic area,’ coupled with the additional limitation requiring that the geographic area have ‘significant social, economic, or physical identity,’ must be read to limit General Plan amendments to recognized parts of the City such as Koreatown or Chinatown that possess distinctive social identities; a physically constrained area, such as Eagle Rock or Mount Washington, which are surrounded by boundaries, streets, or geographic features; or an economic area such as a business district, entire transit oriented district, or ‘village,’ like Westwood or downtown.” We disagree.

As explained in *Westside*s, “[i]n interpreting the language of [Charter] Section 555(a), we start with the plain meaning, and construe the words in context. [Citations.] [Charter] Section 555(a) sets forth three ways the General Plan may be amended: (1) in its entirety; (2) by subject elements or parts of elements; or (3) by geographic area. The parties and we address only the third of these categories. The term ‘geographic area’ refers to physical locations governed by the General Plan: ‘geography’ is the ‘study of the physical features of the earth,’ and ‘area’ is a ‘region.’ [Citation.] The term

‘geographic area,’ therefore, refers to a physical region.” (*Westsidiers, supra*, 27 Cal.App.5th at pp. 1087-1088.)

“[Charter] Section 555(a) does not limit the amendment process to a minimum area or number of parcels. Mindful of the rule that we cannot construe a charter to restrict municipal power without clear mandate in the charter itself [citation], we conclude there are no ‘*clear and explicit* limitations [or] restrictions’ in [Charter] Section 555(a) regarding the size of the ‘geographic area’ that may be the subject of an amendment. We are prohibited from implying any such limitation or restriction on the City’s exercise of its power to govern municipal matters. [Citation.] Because the intent of the voters can be determined from the plain meaning of [Charter] Section 555(a), we need not consider legislative history.” (*Westsidiers, supra*, 27 Cal.App.5th at p. 1088.)

In short, City’s adoption of a general plan amendment pertaining to the Project site did not violate the Charter’s provision allowing amendments to City’s general plan only “in its entirety, by subject elements or parts of subject elements, or by geographic areas.” (Charter section 555(a).)

2. *Sufficiency of the Evidence to Support the Amendment*

Coalition contends that regardless whether the Project site can constitute a “geographic area,” City’s findings were insufficient to establish that the site in its present condition has “significant social, economic or physical identity,” as required by Charter section 555(a). Coalition argues that City (and the trial court) improperly relied upon the future outcome of the proposed Project to satisfy the “significant . . . identity” requirement. Even if Coalition were correct that the significant identity must be assessed

as to the current condition of the geographic area at issue (which is an issue we do not decide), its argument fails.

To the extent Coalition is arguing that City was required to make explicit findings that the Project site had significant identity, it is mistaken. “The adoption or amendment of a general plan is a legislative act. (Gov. Code, § 65301.5.) A legislative act is presumed valid, and a city need not make explicit findings to support its action.” (*Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2004) 126 Cal.App.4th 1180, 1195.) Rather, City’s action simply must be supported by evidence in the record before it. Under the relevant standard of review, City’s amendment of the general plan must be upheld “unless, based on the evidence before the city council, a reasonable person could not conclude” that the Project site has significant social, economic, or physical identity. (*Ibid.*)

Contrary to Coalition’s assertion, there was substantial evidence that, even in its present condition, the Project site has such significant identity. The site is a very large parcel under single ownership, located across the street from a Metro Expo Line station, and is underutilized (unlike other fully occupied industrial parcels in the area). This is sufficient evidence for City reasonably to find that the site is ideally suited for transit-oriented mixed use development, i.e., it has significant economic and physical identity.

3. *Modification of the “Q” Condition*

As noted, the Planning Commission recommended approval of Developer’s request for the general plan amendment and the zoning/height district change, but imposed a condition limiting the Project to a maximum of 1090 residential units, with an increase of up to 73 additional units in exchange for 55 units set-aside for workforce housing. In its proposed

resolution for the general plan amendment, one of the recitals made reference to this condition in its description of the proposed development. At the hearing before the PLUM committee, the condition was modified to allow up to 1210 residential units and to remove the requirement of setting aside 55 units for workforce housing. Coalition contends that City violated Charter section 555 by not referring the modification back to the Planning Commission. Coalition is mistaken.

Charter section 555(d) provides that if the City Council proposes to modify the general plan amendment approved by the Planning Commission, it must refer the proposed modification back to the Planning Commission for its recommendation. This provision did not apply in this case to the PLUM committee's modification removing the set-aside for workplace housing because the record is clear that the set-aside was imposed by the Planning Commission as a "Q" condition. As explained in a publication by the Department of City Planning's re:code LA project, a "Q" condition is a qualified condition imposed as part of the zone for a lot. (See "Deciphering Our Current Zoning System," published March 9, 2015, at <https://recode.la/updates/news/deciphering-our-current-zoning-system>.)

While Coalition is correct that one of the recitals to the resolution to amend the general plan set forth a description of the Project that included a 55-unit set-aside for workforce housing, the resolution did not impose that condition, as shown by its final paragraph: "NOW, THEREFORE, BE IT RESOLVED that the Community Plan shall be amended as shown on the attached General Plan Amendment Map." The attached map showed the site, designated as "COMMUNITY COMMERCIAL"; it did not show the zoning with the "Q" condition. In other words, the amendment itself only

changed the land use designation for the Project site from Limited Manufacturing to Community Commercial.

Although the resolution adopted by the City Council modified the recital that described the Project, it did not change that amendment: the resolution approved by the City Council, like the resolution approved by the Planning Commission, only changed the land use designation from Limited Manufacturing to Community Commercial. Thus, Charter section 555(d) did not come into play.

B. *Adequacy of the EIR*

Coalition's remaining contentions address the adequacy of the EIR for the Project. As the Supreme Court has explained, "[t]he purpose of an EIR is to give the public and government agencies the information needed to make informed decisions, thus protecting "not only the environment but also informed self-government." [Citation.] The EIR is the heart of CEQA, and the mitigation and alternatives discussion forms the core of the EIR." (*In re Bay-Delta etc.* (2008) 43 Cal.4th 1143, 1162.) In reviewing the adequacy of an EIR, "[t]he court does not pass upon the correctness of the EIR's environmental conclusions, but only upon its sufficiency as an informative document." (*In re Bay-Delta etc., supra*, 43 Cal.4th at p. 1161.)

1. *Alternatives Analysis*

Coalition's first challenge is to the alternatives analysis in the EIR. "CEQA requires that an EIR, in addition to analyzing the environmental effects of a proposed project, also consider and analyze project alternatives that would reduce adverse environmental impacts. [Citations.] The CEQA Guidelines state that an EIR must 'describe a range of reasonable

alternatives to the project . . . which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project . . . ’ (Cal. Code Regs., tit. 14, § 15126.6, subd. (a).) An EIR need not consider every conceivable alternative to a project or alternatives that are infeasible. [Citations.] [¶] . . . [¶] “There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.” [Citation.] The rule of reason ‘requires the EIR to set forth only those alternatives necessary to permit a reasoned choice’ and to ‘examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project.’” (*In re Bay-Delta etc., supra*, 43 Cal.4th at p. 1163.)

As noted, in this case City analyzed five alternatives: (1) no project; (2) a project under the existing zoning, i.e., 731,302 square feet of light manufacturing uses, with a proposed height of 45 feet; (3) a project that eliminates the 200,000 square feet of office space from the proposed Project; (4) a project that limits the maximum height to 110 feet but keeps the same residential, office, and retail space; and (5) a reconfigured Project, with the position of the 320-foot tower moved to different corners of the site. Coalition contends the range of alternatives was not reasonable because City did not include a much smaller project or a project with different ratios between residential space and office/commercial space (i.e., fewer residential units). We disagree.

“The process of selecting the alternatives to be included in the EIR begins with the establishment of project objectives by the lead agency. ‘. . . The statement of objectives should include the underlying purpose of the project.’” (*In re Bay-Delta etc., supra*, 43 Cal.4th at p. 1163.) The objectives identified for the Project in this case primarily focused upon creating a

mixed-use development with a high enough density to activate the area during both day and night, and to take advantage of its proximity to existing public transit systems. Thus, City reasonably structured its alternatives analysis around this purpose and did not study alternatives (other than the required “no project” alternative and an alternative under the existing zoning) that would not achieve that purpose. (See *In re Bay-Delta etc., supra*, 43 Cal.4th at p. 1166 [“a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal”].) Moreover, given the shortage of market rate housing in the area, the planned development of additional office and creative space in the vicinity of the Project, and the absence of any planned development of housing in the area, it was reasonable for City to limit the alternatives to projects that provided a significant number of residential units.

In any event, as the trial court noted, “[t]he ‘key issue’ is whether the range of alternatives discussed fosters informed decisionmaking and public participation.” (Citing *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 354 (*Cherry Valley*).) In *Cherry Valley*, the City of Beaumont approved a project to build 560 residential units on a 200-acre site long used for agricultural purposes. (*Id.* at p. 323.) The EIR concluded that the project would have significant impacts on agricultural resources, as it would eliminate all agricultural uses on the site. (*Id.* at p. 349.) The EIR considered five alternatives. In addition to a no project alternative and an alternative under the existing general plan, the EIR examined alternatives with 134 (alternative 2), 196 (alternative 3), and 231 residences (alternative 1); alternatives 2 and 3 included some agricultural uses, alternative 1 did not. All were rejected as economically infeasible to

varying extents. (*Id.* at pp. 353-354.) The plaintiffs challenged the approval, and asserted that the EIR was insufficient because it did not analyze any alternatives involving the construction of 290 units, or any number of residential units between 231 and 560. (*Id.* at p. 354.)

The appellate court rejected the challenge. It explained: “Alternative 3’s comparatively lesser loss of over \$5 million indicated there *may* have been an alternative that would have been profitable and that would have, at least to some extent, reduced the [project’s] agricultural impacts. This alternative would have involved building some number of residences in excess of 196—either by increasing the density of some or all of the residences, setting aside fewer than 60 acres for agricultural use, or both. But CEQA did not require the EIR to analyze a 290-residence alternative or any other alternatives along this continuum. The hypothetical alternative plaintiffs imagine—the one that would maximize profit while reducing agricultural impacts to the fullest extent possible—could have been ‘intelligently considered’ by studying the specifics and financial feasibility of the alternatives that were discussed. [Citation.]” (*Cherry Valley, supra*, 190 Cal.App.4th at pp. 355-356.)

In the present case, as the trial court observed, the EIR included information regarding the number of trips that would be generated daily (and during peak hours) according to each of the uses in the Project (i.e., residential, office space, grocery store, and general retail). Thus, the EIR provided sufficient information to allow the decision makers and the public to evaluate a project with a different ratio of residential and commercial space, or even a smaller project, with respect to the only environmental impacts that could not be mitigated to below significant levels—i.e., traffic impacts and the resulting effect on air quality. Accordingly, we conclude the EIR’s alternatives analysis was sufficient under CEQA.

2. *Discussion of the Draft Community Plan*

Coalition contends the EIR was inadequate because it failed to address the Project's inconsistency with the draft CPIO for the area. In making this argument, Coalition relies upon the Supreme Court's decision in *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918 (*Banning Ranch*). Its reliance is misplaced.

In *Banning Ranch*, the Supreme Court examined "whether an EIR must identify areas that might qualify as environmentally sensitive habitat areas (ESHA) under the California Coastal Act of 1976 (Coastal Act; [Pub. Resources Code,] § 30000 et seq.), and account for those areas in its analysis of project alternatives and mitigation measures." (*Banning Ranch, supra*, 2 Cal.5th at p. 924.) The Court observed that there were adopted regulations regarding what constituted an ESHA, there was significant evidence that ESHA were present at the project site (*id.* at pp. 925-926), and "[t]he [CEQA] Guidelines specifically call for consideration of related regulatory regimes, like the Coastal Act, when discussing project alternatives" (*id.* at p. 936). Thus, the Court held that the lead agency was required under CEQA to evaluate the project's potential impacts on ESHA under the Coastal Act, even if the Coastal Commission had not yet made ultimate findings regarding whether there were ESHA at the project site. (*Id.* at pp. 941-942.)

Coalition contends that the Supreme Court's conclusion "that an EIR that did not discuss potential areas that the Coastal Commission might designate as protected habitat was invalid, even though the habitat areas had not yet been designated" means that City was required to discuss any important public issue of which it was aware, such as the planning standards that were then being drafted. Not so.

In *Banning Ranch*, the Supreme Court simply required the lead agency to comply with CEQA guidelines that mandated it to consider *existing* regulatory regimes when discussing project alternatives. (*Banning Ranch*, *supra*, 2 Cal.5th at p. 936.) But the CEQA guidelines regarding consideration of general or community plans require the EIR to “discuss any inconsistencies between the proposed project and *applicable* general plans, specific plans and regional plans.” (Cal. Code Regs., tit. 14, § 15125, subd. (d), *italics added*.) There is no provision in CEQA or the CEQA Guidelines that requires the EIR to address *draft* plans that have not yet been adopted. (*Chaparral Greens v. City of Chula Vista* (1996) 50 Cal.App.4th 1134, 1145.) And the Legislature has made clear “that courts, consistent with generally accepted rules of statutory interpretation, shall not interpret [CEQA] or the [CEQA] guidelines . . . in a manner which imposes procedural or substantive requirements beyond those explicitly stated in [CEQA] or in the [CEQA] guidelines.” (Pub. Resources Code, § 21083.1.) Thus, we cannot interpret the Guideline requiring a discussion of inconsistencies between the proposed project and applicable plans to require a discussion of inconsistencies between the Project in this case and the draft—i.e., not yet applicable—West Adams community plan or CPIO.

3. *Deferred Mitigation Measures*

CEQA requires an EIR to propose and describe mitigation measures designed to lessen a project’s significant environment impacts. (Pub. Resources Code, § 21002.1, subd. (a).) “Generally, CEQA requires mitigation measures to be formulated in an EIR and not deferred to the development of future plans or measures.” (*Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 234 Cal.App.4th 214, 240.) However, “when, for

practical reasons, mitigation measures cannot be fully formulated at the time of project approval, the lead agency may commit itself to devising them at a later time, provided the measures are required to “satisfy specific performance criteria articulated at the time of project approval.” [Citation.] In other words, “[d]eferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan.”” (*Id.* at p. 241.)

In the present case, the EIR includes several mitigation measures to lessen the Project’s impacts on traffic. Coalition contends that three of them—MM L-2, MM L-10, and MM L-11—constitute improper deferred mitigation measures. We disagree.

Measure MM L-2 provides that “[p]rior to issuance of a Certificate of Occupancy, [Developer] shall prepare and implement a TSM [i.e., transportation systems management] Plan to the satisfaction of LADOT.” The EIR notes that TSM strategies typically include “improved signal controllers, advanced detection systems, left-turn restrictions, peak hour parking restrictions, one-way couplets, scramble crosswalks, etc.” It identifies the kinds of upgrades that will be needed (including specific equipment and hardware), instructs Developer to “meet with LADOT staff to define the signal system upgrade package that will serve as a measure to increase the efficiency of the areawide signal system,” and concludes that “[t]he ultimate TSM plan will require coordination and approval by LADOT.”

Although measure MM L-2 does not set a specific quantitative performance goal, no such quantitative goal is required. (*North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 630.) Instead, the measure requires increased efficiency at

the impacted intersections and also requires that the TSM plan be developed with, and approved by, LADOT—the agency with expertise on these issues—before issuance of a certificate of occupancy. This is sufficient to satisfy CEQA. (*Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1275 [“Deferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan”].)

Measures MM L-10 and MM L-11 are measures to mitigate the traffic impacts during construction of the Project. Measure MM L-10 states that “LADOT recommends that a construction work site traffic control plan be submitted to LADOT’s Hollywood District Office for review and approval prior to the start of any construction work,” and describes what the plan should show. Measure MM L-11 requires that a detailed construction management plan be submitted to City for review and approval, and provides a detailed list of the elements that should be included. The measure also states that the plan “shall be based on the nature and timing of the specific construction activities and other projects in the vicinity of the Project Site.”

Coalition argues these measures are improper because they “lack any requirement of specific physical improvements and do not commit the Project to meeting any specific performance criteria at all.” But there is no requirement in CEQA that a mitigation measure provide specific physical improvements. Instead, as the EIR explained, these measures are aimed at minimizing potential short-term impacts relating to “construction traffic impacts on roadway operations [that] could include periodic curb lane closures along La Cienega Boulevard and Jefferson Boulevard to allow installation or removal of scaffolding, temporary placement of cranes, or other heavy equipment and other activities[,] . . . the temporary loss of bus

stops or rerouting bus lines, as well as the temporary loss of on-street parking.”

Measures MM L-10 and MM L-11 satisfy CEQA because they discuss the specific elements that must be considered in developing the work site traffic control plan and construction management plans, and they require that the plans be approved by LADOT and City before construction begins. As City noted in response to a comment on the Draft EIR, City requires implementation of similar plans for all development that could affect traffic and roadways during construction. Moreover, deferral of the full development of the plans is necessary because the plans must take into account the conditions that exist—including other nearby construction projects—at the time of construction of the Project. Accordingly, we conclude these mitigation measures do not constitute improper deferral of mitigation.

DISPOSITION

The judgment is affirmed. City and Developer shall recover their costs on appeal.

WILLHITE, Acting P. J.

We concur:

CURREY, J.

DUNNING, J.*

*Retired Judge of the Orange County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.